

### Remarks

Reconsideration is requested in view of the preceding amendments and the following remarks. Claims 17-22 and 37 are pending. New claims 38-42 are submitted for consideration. Upon entry of this Amendment, claims 17-22 and 37-42 are in the application.

Support for new claims 38-42 can be found in the specification at, for example, page 14, lines 17-25 and page 15, lines 13-14. No new matter is introduced.


Claims 17-22 and 37 stand rejected as allegedly anticipated by Dalal et al., U.S. Patent App. Pub. 2002/0065894 (“Dalal”). This rejection is traversed. Claim 17 as amended recites a messaging method that comprises selecting a message type for a message for delivery to at least one selected recipient, and evaluating application presence data associated with a recipient activity status record for an initiated application associated with the selected message type. The message is processed based on the evaluation. Dalal does not teach or suggest such a method. Dalal teaches messaging systems that include a global presence state (such as online, offline, or hidden), and a local presence state that is obtained by prompting the user to “specify how and where a user wishes to be contacted.” Dalal, paragraphs 6-7 and 16-17. Dalal’s global presence state can be based on initiation or termination of an application, and Dalal’s local presence state is based on user responses to a prompt. “Upon user activation, the [unified messaging processor] UMI 10 prompts the user for a local state.” Dalal, paragraph 16. In contrast, claim 17 recites application presence data that is associated with a recipient activity status record (i.e., recipient activity) in the initiated application. Instead of basing recipient presence on recipient responses to a prompt, recipient activity in the application is used. Dalal does not teach or suggest such a method, but merely that a user can select a presence state in response to a prompt. For at least this reason, claim 17 and dependent claims 18-22 and 37-42 are properly allowable over Dalal.

In view of the preceding amendments and remarks, all pending claims are in condition for allowance, and action to such end is requested.

Respectfully submitted,

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